

CHAPTER 306

REVENUE - ACTIVITIES REGULATION

HOUSE BILL 21-1216

BY REPRESENTATIVE(S) Valdez A. and Van Winkle, Gray, Herod, Jackson, Michaelson Jenet, Ricks, Bird, Hooton, Jodeh;
also SENATOR(S) Gonzales, Buckner, Ginal, Holbert, Jaquez Lewis, Moreno, Rodriguez, Smallwood.

AN ACT**CONCERNING THE ABILITY FOR CERTAIN MARIJUANA LICENSEES TO CHANGE THE DESIGNATION OF MARIJUANA FROM RETAIL TO MEDICAL.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 44-10-502, **add** (9) as follows:

44-10-502. Medical marijuana cultivation facility license - rules - definitions.

(9) (a) AFTER OBTAINING PASSING TESTING RESULTS, A MEDICAL MARIJUANA CULTIVATION FACILITY MAY RECEIVE A TRANSFER OF RETAIL MARIJUANA FROM A CO-LOCATED RETAIL MARIJUANA CULTIVATION FACILITY WITH AT LEAST ONE IDENTICAL CONTROLLING BENEFICIAL OWNER AND CHANGE THE DESIGNATION OF THE RETAIL MARIJUANA TO MEDICAL MARIJUANA. THE MEDICAL MARIJUANA CULTIVATION FACILITY SHALL ENTER THE DESIGNATION CHANGE INTO THE SEED-TO-SALE TRACKING SYSTEM AND, AFTER THE CHANGE IS ENTERED INTO THE SYSTEM, THE MARIJUANA IS MEDICAL MARIJUANA AND IS THE PROPERTY OF THE MEDICAL MARIJUANA CULTIVATION FACILITY. THE MARIJUANA THAT CHANGED DESIGNATION PURSUANT TO THIS SUBSECTION (9)(a) SHALL NOT BE TRANSFERRED TO THE ORIGINATING RETAIL MARIJUANA CULTIVATION FACILITY OR ANY RETAIL MARIJUANA LICENSEE, HAVE ITS DESIGNATION CHANGED FROM MEDICAL MARIJUANA TO RETAIL MARIJUANA, OR OTHERWISE BE TREATED AS RETAIL MARIJUANA.

(b) BOTH THE MEDICAL MARIJUANA CULTIVATION FACILITY AND RETAIL MARIJUANA CULTIVATION FACILITY MUST REMAIN AT OR UNDER THEIR RESPECTIVE REGULATED INVENTORY LIMITS BEFORE AND AFTER THE DESIGNATION IS CONDUCTED PURSUANT TO SUBSECTION (9)(a) OF THIS SECTION.

(c) A TRANSFER AND CHANGE OF DESIGNATION OF RETAIL MARIJUANA TO MEDICAL MARIJUANA PURSUANT TO THIS SUBSECTION (9) IS NOT A TRANSACTION

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

THAT RESULTS IN A RIGHT TO REFUND OF ANY RETAIL MARIJUANA EXCISE TAX INCURRED OR PAID PRIOR TO THAT TRANSFER AND CHANGE OF DESIGNATION.

SECTION 2. In Colorado Revised Statutes, 44-10-503, **add** (12) as follows:

44-10-503. Medical marijuana products manufacturer license - rules - definition. (12) (a) AFTER OBTAINING PASSING TESTING RESULTS, A MEDICAL MARIJUANA PRODUCTS MANUFACTURER MAY RECEIVE A TRANSFER OF RETAIL MARIJUANA THAT HAS BEEN EXTRACTED AND IS IN A CONCENTRATED FORM FROM A CO-LOCATED RETAIL MARIJUANA PRODUCTS MANUFACTURER WITH AT LEAST ONE IDENTICAL CONTROLLING BENEFICIAL OWNER AND CHANGE THE DESIGNATION OF THE RETAIL MARIJUANA THAT HAS BEEN EXTRACTED AND IS IN A CONCENTRATED FORM TO MEDICAL MARIJUANA THAT HAS BEEN EXTRACTED AND IS IN A CONCENTRATED FORM. THE MEDICAL MARIJUANA PRODUCTS MANUFACTURER SHALL ENTER THE DESIGNATION CHANGE INTO THE SEED-TO-SALE TRACKING SYSTEM AND, AFTER THE CHANGE IS ENTERED INTO THE SYSTEM, THE PRODUCT IS A MEDICAL MARIJUANA PRODUCT AND IS THE PROPERTY OF THE MEDICAL MARIJUANA PRODUCTS MANUFACTURER. A PRODUCT THAT CHANGED DESIGNATION PURSUANT TO THIS SUBSECTION (12)(a) SHALL NOT BE TRANSFERRED TO THE ORIGINATING RETAIL MARIJUANA PRODUCTS MANUFACTURER OR ANY RETAIL MARIJUANA LICENSEE, HAVE ITS DESIGNATION CHANGED FROM A MEDICAL MARIJUANA PRODUCT, OR OTHERWISE BE TREATED AS A RETAIL MARIJUANA PRODUCT.

(b) A TRANSFER AND CHANGE OF DESIGNATION OF RETAIL MARIJUANA THAT HAS BEEN EXTRACTED AND IS IN A CONCENTRATED FORM TO MEDICAL MARIJUANA THAT HAS BEEN EXTRACTED AND IS IN A CONCENTRATED FORM PURSUANT TO THIS SUBSECTION (12) IS NOT A TRANSACTION THAT RESULTS IN A RIGHT TO REFUND OF ANY RETAIL MARIJUANA EXCISE TAX INCURRED OR PAID PRIOR TO THAT TRANSFER AND CHANGE OF DESIGNATION.

SECTION 3. In Colorado Revised Statutes, 44-10-602, **add** (13) as follows:

44-10-602. Retail marijuana cultivation facility license - rules - definitions. (13) (a) AFTER OBTAINING PASSING TEST RESULTS REQUIRED BY SUBSECTION (4) OF THIS SECTION, A RETAIL MARIJUANA CULTIVATION FACILITY MAY TRANSFER RETAIL MARIJUANA TO A CO-LOCATED MEDICAL MARIJUANA CULTIVATION FACILITY WITH AT LEAST ONE IDENTICAL CONTROLLING BENEFICIAL OWNER AND CHANGE THE DESIGNATION OF THE RETAIL MARIJUANA TO MEDICAL MARIJUANA. PURSUANT TO SECTION 44-10-502 (9)(a), AFTER THE MEDICAL MARIJUANA CULTIVATION FACILITY ENTERS THE DESIGNATION CHANGE INTO THE SEED-TO-SALE TRACKING SYSTEM, THE MARIJUANA IS MEDICAL MARIJUANA AND IS THE PROPERTY OF THE MEDICAL MARIJUANA CULTIVATION FACILITY. THE MARIJUANA THAT CHANGED DESIGNATION PURSUANT TO THIS SUBSECTION (13)(a) SHALL NOT BE TRANSFERRED TO THE ORIGINATING RETAIL MARIJUANA CULTIVATION FACILITY OR ANY RETAIL MARIJUANA LICENSEE, HAVE ITS DESIGNATION CHANGED FROM MEDICAL MARIJUANA TO RETAIL MARIJUANA, OR OTHERWISE BE TREATED AS RETAIL MARIJUANA.

(b) BOTH THE MEDICAL MARIJUANA CULTIVATION FACILITY AND RETAIL MARIJUANA CULTIVATION FACILITY MUST REMAIN AT OR UNDER THEIR RESPECTIVE REGULATED INVENTORY LIMITS BEFORE AND AFTER THE DESIGNATION IS CONDUCTED PURSUANT TO SUBSECTION (13)(a) OF THIS SECTION.

(c) A TRANSFER AND CHANGE OF DESIGNATION OF RETAIL MARIJUANA TO MEDICAL MARIJUANA PURSUANT TO THIS SUBSECTION (13) IS NOT A TRANSACTION THAT RESULTS IN A RIGHT TO REFUND OF ANY RETAIL MARIJUANA EXCISE TAX INCURRED OR PAID PRIOR TO THAT TRANSFER AND CHANGE OF DESIGNATION.

SECTION 4. In Colorado Revised Statutes, 44-10-603, **add** (15) as follows:

44-10-603. Retail marijuana products manufacturer license - rules - definition. (15) (a) AFTER OBTAINING PASSING TEST RESULTS REQUIRED BY SUBSECTION (6) OF THIS SECTION, A RETAIL MARIJUANA PRODUCTS MANUFACTURER MAY TRANSFER RETAIL MARIJUANA THAT HAS BEEN EXTRACTED AND IS IN A CONCENTRATED FORM TO A CO-LOCATED MEDICAL MARIJUANA PRODUCTS MANUFACTURER WITH AT LEAST ONE IDENTICAL CONTROLLING BENEFICIAL OWNER AND CHANGE THE DESIGNATION OF THE RETAIL MARIJUANA THAT HAS BEEN EXTRACTED AND IS IN A CONCENTRATED FORM TO MEDICAL MARIJUANA THAT HAS BEEN EXTRACTED AND IS IN A CONCENTRATED FORM. PURSUANT TO SECTION 44-10-503 (12)(a), AFTER THE MEDICAL MARIJUANA PRODUCTS MANUFACTURER ENTERS THE DESIGNATION CHANGE INTO THE SEED-TO-SALE TRACKING SYSTEM, THE PRODUCT IS A MEDICAL MARIJUANA PRODUCT AND IS THE PROPERTY OF THE MEDICAL MARIJUANA PRODUCTS MANUFACTURER. A PRODUCT THAT CHANGED DESIGNATION PURSUANT TO THIS SUBSECTION (15)(a) SHALL NOT BE TRANSFERRED TO THE ORIGINATING RETAIL MARIJUANA PRODUCTS MANUFACTURER OR ANY RETAIL MARIJUANA LICENSEE, HAVE ITS DESIGNATION CHANGED FROM A MEDICAL MARIJUANA PRODUCT, OR OTHERWISE BE TREATED AS A RETAIL MARIJUANA PRODUCT.

(b) A TRANSFER AND CHANGE OF DESIGNATION OF RETAIL MARIJUANA THAT HAS BEEN EXTRACTED AND IS IN A CONCENTRATED FORM TO MEDICAL MARIJUANA THAT HAS BEEN EXTRACTED AND IS IN A CONCENTRATED FORM PURSUANT TO THIS SUBSECTION (15) IS NOT A TRANSACTION THAT RESULTS IN A RIGHT TO REFUND OF ANY RETAIL MARIJUANA EXCISE TAX INCURRED OR PAID PRIOR TO THAT TRANSFER AND CHANGE OF DESIGNATION.

SECTION 5. In Colorado Revised Statutes, 39-28.8-302, **amend** (2) as follows:

39-28.8-302. Retail marijuana - excise tax levied at first transfer from retail marijuana cultivation facility - tax rate. (2) (a) EXCEPT AS PROVIDED IN SUBSECTION (2)(b) OF THIS SECTION, the tax imposed pursuant to subsection (1) of this section shall not be levied on the sale or transfer of unprocessed marijuana by a marijuana cultivation facility to a medical marijuana center.

(b) A TRANSFER AND CHANGE OF DESIGNATION OF RETAIL MARIJUANA TO MEDICAL MARIJUANA PURSUANT TO SECTIONS 44-10-502 (9) AND 44-10-602 (13) OR RETAIL MARIJUANA THAT HAS BEEN EXTRACTED AND IS IN A CONCENTRATED FORM TO MEDICAL MARIJUANA THAT HAS BEEN EXTRACTED AND IS IN A CONCENTRATED FORM PURSUANT TO SECTIONS 44-10-503 (12) AND 44-10-603 (15) IS NOT A TRANSACTION THAT CREATES A RIGHT TO A REFUND OF A RETAIL MARIJUANA EXCISE TAX IMPOSED OR PAID PRIOR TO THAT TRANSFER AND CHANGE OF DESIGNATION.

SECTION 6. In Colorado Revised Statutes, **add** 44-10-205 as follows:

44-10-205. Change designation of marijuana from medical to retail - report - repeal. (1) ON OR BEFORE JANUARY 3, 2022, THE STATE LICENSING AUTHORITY SHALL SUBMIT TO THE GENERAL ASSEMBLY A REPORT ANALYZING THE FEASIBILITY OF ALLOWING CHANGING REGULATED MARIJUANA'S DESIGNATION FROM MEDICAL TO RETAIL BETWEEN MEDICAL MARIJUANA CULTIVATION FACILITIES AND RETAIL MARIJUANA CULTIVATION FACILITIES AND BETWEEN MEDICAL MARIJUANA PRODUCTS MANUFACTURERS AND RETAIL MARIJUANA PRODUCTS MANUFACTURERS. THE REPORT MUST INCLUDE THE IDENTIFICATION OF:

(a) POTENTIAL ECONOMIC IMPACTS, INCLUDING POTENTIAL IMPACTS ON REGULATED MARIJUANA BUSINESSES AND ON STATEWIDE AND REGIONAL REVENUE;

(b) POTENTIAL PRODUCTION MANAGEMENT IMPACTS;

(c) POTENTIAL IMPACTS ON WHOLESALE, PATIENT, AND CONSUMER PRICES FOR THE MEDICAL AND RETAIL MARIJUANA MARKETS;

(d) STAKEHOLDER PERSPECTIVES, INCLUDING SUPPORT OR OPPOSITION TO FUTURE STATUTORY CHANGES TO ALLOW CHANGING REGULATED MARIJUANA'S DESIGNATION FROM MEDICAL TO RETAIL BETWEEN MEDICAL MARIJUANA CULTIVATION FACILITIES AND RETAIL MARIJUANA CULTIVATION FACILITIES AND BETWEEN MEDICAL MARIJUANA PRODUCTS MANUFACTURERS AND RETAIL MARIJUANA PRODUCTS MANUFACTURERS;

(e) POTENTIAL IMPACTS OR CHALLENGES FOR LOCAL GOVERNMENTS; AND

(f) POTENTIAL ALTERNATIVES TO ALLOWING CHANGING REGULATED MARIJUANA'S DESIGNATION FROM MEDICAL TO RETAIL BETWEEN MEDICAL MARIJUANA CULTIVATION FACILITIES AND RETAIL MARIJUANA CULTIVATION FACILITIES AND BETWEEN MEDICAL MARIJUANA PRODUCTS MANUFACTURERS AND RETAIL MARIJUANA PRODUCTS MANUFACTURERS.

(2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2022.

SECTION 7. Effective date. This act takes effect July 1, 2022; except that section 6 takes effect upon passage.

SECTION 8. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: June 23, 2021